IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

MONDAY, THE FOURTEENTH DAY OF FEBRUARY OF
TWO THOUSAND AND FIVE

PRESENT

THE HON'BLE MR JUSTICE B.PRAKASH RAO

WRIT PETITION NOs : 21960 of 2000 & 5351 of 2004

(On being mentioned)

WRIT PETITION NO : 21960 of 2000

Between:

Dr.Sidda Reddy Eswara Reddy, s/o Ramana Reddy,
Occ:Senior Scientist, Horticulture,

Horticultural Research Station,
Jaipur, Adilabad District.

..... PETITIONER

AND

1. Acharya N.G.Ranga Agriculture and

Research University, rep., by its Registrar,

Administrative Officer,
Rajendra Nagar, Hyderabad-500 030.

2 Board of Management, Acharya N.G.Ranga

Agriculture and Research University,
rep., by the Vice-Chancellor,

Rajendra Nagar, Hyderabad-500 030.

.....RESPONDENTS

Petition under Article 226 of the constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court will be pleased to issue a writ order or direction more particularly in the nature of writ of Mandamus declaring the Resolution No.6471 dated 20-10-2000 confirring the decision to impose the penalty of removal as arbitrary, bad in law, unjust, unsustainable and violative of principles of natural justice consequently direct the respondents not to take any action in pursuance of such Resolution to enable the petitioner to continue in office till such time a regular enquiry is conducted into the charges leveled against the petitioner in charge sheet dated 27-01-1997.

WRIT PETITION NO : 5351 of 2004

Between:

Dr.S.Eswara Reddy, s/o Ramana Reddy,
Occ:Senior Scientist, Horticulture,

Horticultural Research Station,
Jaipur, Adilabad District.

..... PETITIONER

AND

1. Acharya N.G.Ranga Agriculture and

Research University, rep., by its Registrar,

Administrative Officer,
Rajendra Nagar, Hyderabad-500 030.

2 Board of Management, Acharya N.G.Ranga

Agriculture and Research University,
rep., by the Vice-Chancellor,

Rajendra Nagar, Hyderabad-500 030.

.....RESPONDENTS

Petition under Article 226 of the constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court will be pleased to issue another or direction more particularly one in the nature of writ of certiorari; a) call for the records relating to and connected with the Proceedings dated 29-11-2000 and quash or set aside holding it as arbitrary, illegal, unwarranted and in violation of Articles 14 of the Constitution of India; b) consequently direct the respondents to reinstate me back into service together with all consequential benefits that flow from out of quashing of the order dated 29-11-2000

Counsel for the Petitioner: MR.NUTY RAM MOHAN RAO (In both the writ petitions)

Counsel for the Respondents: MR.B.S.REDDY (In both the writ petitions)

The Court made the following :

HONOURABLE SRI JUSTICE B.PRAKASH RAO

WRIT PETITION NOs.21960 of 2000 & 5351 of 2004

(On being mentioned)

COMMON ORDER:

Initially the petitioner filed a writ petition in W.P.21960 of 2000 challenging the resolution no.6471 dated 20-10-2000 confirming the decision to impose the penalty of removal. During the pendency of the said writ petition, the respondent passed removal order vide proceedings No.2419/Ser.II/A2/1995 dated 29-11-2000. Questioning the said removal order, the petitioner filed Writ Petition NO.5351 of 2004. Since, both the writ petitions are connected, seeking similar relief, they are taken up for disposal by way of

present common order.

2. Heard Sri Nuty Rama Mohana Rao, learned counsel appearing on behalf of the petitioner and Sri B.Siva Reddy, learned Standing Counsel appearing on behalf of the respondents-University.

3. The facts, in brief, are that the petitioner having successfully obtained not only the Post Graduation from the same University but also Ph.D from the Gujarat Agricultural University in Horticulture, initially appointed as a Junior Scientist on 15-10-1981. Subsequently in pursuance of the notification issued by the respondent-University, he was appointed as Assistant Professor and joined duty on 10-12-1988 and subsequently posted at newly started Citrus Research Station. However, on a complaint made by one B.Raghava Reddy on certain allegations, Anti Corruption Bureau, after conducting a preliminary enquiry by collecting the statements of several individuals, submitted a report on 19-05-1995 and also the enquiry report dated 06-04-1996 which were sent to the petitioner as per the proceedings dated 18-05-1996. The petitioner submitted the explanation on 19-06-1996 comprehensively explained the various circumstances and also denying the allegations. This was followed by a comprehensive charge memo dated 27-01-1995 levelling three articles and charges against the petitioner to which the petitioner has once again given a reply on 15-02-1997. Later, the respondents have issued a memo dated 14-09-1997 to the petitioner intimating that in all about ten witnesses would be examined in support of the charges stating that the petitioner can as well give the reply. This was followed by another letter on 03-06-1999 by the Enquiry Officer himself stating that the enquiry would be conducted on 28-06-1999. However, by another letter dated 10-06-1999, the enquiry Officer intimated the petitioner that the enquiry has been postponed. Thereafter, no enquiry was conducted and none witnesses were examined or any opportunity was given to the petitioner to substantiate his case by production of witnesses or otherwise. However, surprisingly, a show cause notice dated 10-04-2000 was issued to the petitioner calling upon him as to why the major penalty of removal would not be imposed. To which, the petitioner has submitted his explanation on 12-05-2000. Thereafter, the Board of Management of the University has passed a resolution No.6471, dated 20-10-2000 proposing the penalty of removal, exclusively based upon findings in the report given by the Anti Corruption

Bureau. According to the petitioner, it is wholly in the teeth of the mandate as contemplated under its own regulations and further, the entire action being quite contrary to the principles of natural justice, it is wholly vitiated. Subsequently, it is pointed out that the order of removal was passed on
29-11-2000 in terms of the resolution passed earlier. Hence, the writ petition.

4. In the counter affidavit filed by the respondents herein, it is stated that having regard to the orders passed subsequently on 29-11-2000 which is subsequent to the filing of the writ petition and the rejection of the application filed by the petitioner seeking for amendment of the prayer, it is not open for the petitioner to make a challenge to the said proceedings. Hence, the main writ petition itself is not maintainable. Further, it was also pointed out that having regard to the nature of the allegations made against him in the complaint filed by the said B,Raghava Reddy, in regard to the acceptance of bribe and purchase of fertilizers etc, and the findings given by the Anti Corruption Bureau holding that the said allegations having been proved against him, there is nothing to display the same and further it is only due to the non-cooperation of the petitioner and absence of himself, and the ground again has been taken which is perfectly valid. That apart, though the petitioner was given sufficient opportunity, the same had not been availed of by the petitioner. Hence, the petitioner cannot make any grievance. Hence, the writ petition is liable to be dismissed.

5. Even though several contentions have been urged across the bar from both the sides in regard to the merits and the procedure in conducting the alleged enquiry by both the Anti Corruption Bureau and the Enquiry Officer, the fact in the main writ petition is that there is no dispute in regard to the letter issued by the Enquiry Officer for conducting enquiry on 28-06-1999, it was subsequently postponed as per the letter dated 10-06-1999. However, there was no enquiry nor any intimation given by the enquiry officer for conducting such enquiry for the purpose of examining any of the witnesses in support of the charges as leveled against him. In stead of conducting any such enquiry and examining the witnesses and giving similar such opportunity to the petitioner in rebuttal, straight away the show cause notice was given on 10-04-2000 wherein a reliance was straight away sought to be placed all along on the Anti Corruption Bureau findings, which were relied by the Enquiry Officer, in a independent

enquiry conducted by the Enquiry Officer. Further, even the resolution passed by the Board of Management of the University on
20-10-2000 with its No.6471, it is not based upon any of the findings given by the Enquiry Officer but only rests on the findings given by the Anti Corruption Bureau. It is relevant to note that as per Rule 9 (vi) of the First Statutes of the Andhra Pradesh Agricultural University – Statutes under Section 38 (b) of the Andhra Pradesh Agricultural University Act, 1963, which reads as follows:

> "(vi) The grounds on which it is proposed to take action under clause (iv) shall be reduced to the form of a definite charge or charges which shall be communicated in writing to the officer concerned and shall be required within a reasonable time to state in writing whether he admits the truth of all or any of the charges, what explanation or defence, if any, he has to offer and whether he desires to be heard in person. If he so desires or if the competent authority so directs an oral enquiry shall be held at which all evidence shall be heard as to such of the charges as are not admitted. The persons charged shall be entitled to cross examine the witnesses, to have such witnesses called as he may wish, provided that the officer conducting the enquiry may for reasons to be recorded in writing refuse to call any witness. The proceedings shall contain sufficient record of the evidence and a statement of the findings and the grounds thereof."

6. From the above, it is quite evident that necessarily it contemplates an independent enquiry de horse any enquiry conducted by the Anti Corruption Bureau. Admittedly in this case, without there being any such enquiry nor any opportunity being given to the petitioner for rebuttal, it is quite apparent that the decision taken by the Board of Management in its resolution No.6471, dated 20-10-2000 is in the teeth of mandate procedure as contemplated
there under. Having postponed the enquiry as per the letter dated 10-06-1999 and there being no enquiry fixed or conducting of any intimation to the petitioner, it is not open for the respondent-University to fall back on the report of the Anti Corruption Bureau and take any such serious action to the prejudice of the petitioner, which action being in the teeth of the procedure as contemplated in the aforesaid regulation, the action of the respondent-University cannot be stated to be in terms of the procedure and the mandate as

prescribed thereunder.

7 . In the circumstances, it has to be held that the entire action of the respondent University is totally vitiated and is liable to be set aside.

8. For the fore going reasons, the resolution No.6471, dated 20-10-2000 and also the consequent orders passed by the respondent-University on 29-11-2000 are hereby set aside and the writ petitions are allowed. However, it is open to the respondent-University to pass fresh orders after following the due procedure as contemplated under the aforesaid statute by providing sufficient opportunity to the petitioner in rebuttal. No costs.

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February 14, 2005

Kvr

That Rule Nisi have been made absolute as above.

Witness the Hon'ble Sri Devinder Gupta, the Chief Justice on this the Monday, Fourteenth day of February, two thousand and five.

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ASSISTANT REGISTRAR

February 14, 2005.

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Section Officer

To

1. The Registrar, Acharya N.G.Ranga

Agriculture and Research University,

Administrative Officer,
Rajendra Nagar, Hyderabad-500 030.

2 The Vice-Chancellor,

Board of Management, Acharya N.G.Ranga

Agriculture and Research University,
Rajendra Nagar, Hyderabad-500 030.

3 Two C.D.Copies.